In The
Supreme Court of Mayflower

No. 02-20

VINNIEMC2165,

Petitioners,

v.

STATE OF MAYFLOWER,

Respondent.

Appeal from the Mayflower District Court
for the District of Clark County

Before TURNTABLE, *Chief Justice*, TOTORO, STICKZA, CLARKE, CABOT, XIQAQ, KHALED, MANDATORY, AND KRABZ, *Associate Justices.*

KHALED, J., delivered the opinion of the unanimous Court.

The State of Mayflower brought this criminal action against the Respondent charging him with assault, murder, and brandishing of a firearm. The State's sole witness authenticated a video exhibit in line with the Rules of Evidence, but the exhibit was not examined further by the prosecution. The trial judge then took it upon himself to conduct a direct examination of the witness, posing eight substantive questions that supplied essential elements of the prosecutions case. Respondent was ultimately convicted, and the trial court imposed additional penalties, which included a permanent prohibition on the possession of firearms and ammunition, alongside a fifty-day suspension from peace office status.

Petitioner appeals, arguing that the trial judge's question violated his right to a fair trial before an impartial tribunal. We agree.

The trial court erred in supplying the State's missing proof, denying Respondent the constitutional promise of a fair and impartial tribunal. We also hold that the fifty-day peace-officer disqualification must be vacated because § 1601(d) speaks only to misconduct offenses defined in Title I. And, that permanent firearm prohibition, though within the court's power to impose, cannot stand because its severity amounts to cruel and unusual punishment. Accordingly, the judgment is reversed in part and affirmed in part.

I

A judge may ask a question; but he may not become the prosecutor. Our Mayflower Rules say nothing on the point in its Rules of Evidence; in that silence, practice permits the Federal Rules to speak instead. Rule 614(b) recognizes the court's authority to interrogate a witness, an authority as old as the trial itself and often useful. But it comes with a strict condition: the scales must stay even. See *Chainey* v. *Street*, 523 F. 3d 200, 221–22 (3d Cir. 2008) (Rule 614(b) allows judicial interrogation; review is for abuse of discretion). And the Supreme Court's reminder endures: the judge is "governor of the trial, not mere moderator." *Quercia* v. *United States*, 289 U. S. 466, 469 (1933).

That constraint does not evaporate in a nonjury proceeding. The judge may inquire to understand; the judge may not advocate to prove. Federal courts put it simply: the power to question is bound by the duty of neutrality, clarify what is obscure; do not supply what is missing. See *United States* v. *Adedoyin*, 369 F. 3d 337, 342 (3d Cir. 2004) ("must not … assume that of an advocate"); *United States* v. *Beaty*, 722 F. 2d 1090, 1095 (3d Cir. 1983) (clarification is not taking over the government's examination); *United States* v. *Wilensky*, 757 F. 2d 594, 597–98 (3d Cir. 1985) (extensive judicial questioning can overstep prudent bounds); *United States* v. *Ottaviano*, 738 F. 3d 586, 594–95 (3d Cir. 2013) (when questioning becomes cross-examination it is unlawful).

Due process sets a concrete guide that no one may be tried before a tribunal that, in substance, becomes a party. See *In re Murchison,* 349 U. S. 133, 136 (1955) ("no man can be a judge in his own case").

Persuasive authority from bench-trial jurisdictions reads the same. For example, Illinois gives judges "wider latitude" in bench trials, permitting questions to clarify, but warns against "assum[ing] the role of prosecutor" or going beyond the record. *People* v. *Johnson*, 327 Ill. App. 3d 203, 208–09, 762 N.E. 2d 615, 618–19 (1st Dist. 2001); In re N.T., 31 N.E. 3d 254, 268–69 (Ill. App. Ct. 1st Dist. 2015).

Applied to this case, the State authenticated a video and fell silent. The court then announced its own direct and asked eight, element-bearing questions: who the defendant was, what he did, where and in what official posture. None of which the State had asked, creating load-bearing themes of guilt. In a bench trial that is worse, not better: the court constructed the missing case and then adjudged the weight of its own construction.

When the court furnished the States missing elements, and then relied on them to sentence the Defendant, it broke the constitutional promise that the Framers gave to us all a fair tribunal. See 6 LaFave et al., Criminal Procedure § 22.4(a) (due process guarantees an impartial judge; the inquiry is an objective one into the risk of bias).

The amici argues that the trial judge's intervention was harmless. It was not. When a judge abandons neutrality and assumes the role of a prosecutor, the error is structural, not subject to harmless-error review. See *Tumey* v. *Ohio*, 273 U. S. 510, 535 (1927) (biased adjudicator violates due process regardless of outcome); *People* v. *Trefonas*, 9 Ill. 2d 92, 100, 136 N.E. 2d 817, 822 (1956) ("line of propriety is crossed when the judge fails to function as the trier of fact and assumes the role of prosecutor"). If the conviction depends on the judges' questions, that isn't harmless. That is the whole trial. We dismiss and remand his arguments.

II

This case turns on a few spare lines in Title Four. They create a swift, practical mechanism to revoke a firearms license and, alongside it, a judicial power to set how long that revocation lasts. Our task is to read the words, so they work together. "In ascertaining the plain meaning of the statute, the court must look to the particular statutory language at issue, as well as the language and design of the statute as a whole." *K Mart Corp.* v. *Cartier, Inc.*, 486 U. S. 281, 291 (1988).

Starting with the text. Section 4902 places the initiation with the police: "a state-issued firearm license shall be revoked by law enforcement officers" when statutory triggers are met. That is the administrative engine, a ministerial act. Next, § 4903 fixes a default duration "shall be revoked for only 24 hours" and then adds the controlling phrase: "unless otherwise specified by a court order." The words are plain. Courts "must presume that a legislature says in a statute what it means and means in a statute what it says." *Conn. Nat'l Bank* v. *Germain*, 503 U. S. 249, 253–54 (1992). And when the language is plain, "the sole function of the courts is to enforce it according to its terms." *Lamie* v. *U.S. Tr.,* 540 U. S. 526, 534 (2004) (cleaned up).

"Shall" is *generally* mandatory; it is not a suggestion. *Lexecon Inc.* v. *Milberg Weiss*, 523 U. S. 26, 35 (1998). Courts have long affirmed this, and we must not expand further. The carve-out "unless otherwise specified by a court order" is not a tickbox, it is an affirmative grant to set a different period, with no fixed ceiling. We do not waste words: "no clause, sentence, or word shall be superfluous, void, or insignificant." *Duncan* v. *Walker*, 533 U. S. 167, 174 (2001). Read fairly, the parts fit thus: § 4902 names who executes revocation ministerially on behalf of the Sovereign; § 4903 assigns who sets its duration (the court, by order, beyond the 24-hour default); § 4904 instructs officers to log what has been done. Each provision has work to do; none is redundant.

Amici and petitioner reply that because no 24-hour police revocation appears in this record, the judge had nothing to "extend" and thus no power to act. We don't agree. Section 4903 speaks in the passive voice "shall be revoked … unless otherwise specified by a

court order." *Id.* The grammar does not smuggle in a condition precedent that the police must first "start the clock." "A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme," and "only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law." *United Sav. Ass'n of Tex.* v. *Timbers of Inwood Forest Assocs., Ltd.*, 484 U. S. 365, 371 (1988). The sensible reading is this: officers revoke when the statute's triggers fire and record the act, ministerially; the court may "otherwise specify" a longer (even indefinite) period by order where the record warrants it.

Their *expressio unius* argument fares no better. The canon is a guide, not a command, applied "with great caution, and only under certain conditions." 2A SUTHERLAND STATUTES AND STATUTORY CONSTRUCTION § 47:25. It "generally has force only when the items expressed are members of an associated group or series," it "does not apply to an entire code, but only to an individual statute," and when a statute uses "include," it is "generally improper" to infer exclusion of items not listed. *Id.* The maxim also does not apply "unless it is fair to suppose that the legislature considered the unnamed possibility and meant to say no to it." *Id.*

The whole-act rule points the same way. We look not only at the phrase but at the statute's structure and design. The Legislature expressly fixed a 24-hour default and right next to it expressly vested courts with authority to "otherwise specify." The contrast confirms, rather than defeats, judicial power to set a longer period by order. Accordingly, Title Four authorizes law enforcement to revoke ministerially when the triggers are met and authorizes courts, by order, to set duration beyond the 24-hour default.

However, I pause to take up a point neither side has pressed but that matters to the outcome. Our Framers copied, almost word for word, the ban on "excess bail, excessive fines, [and] cruel and unusual punishments," MAYFL. CONST. ART. I, § 5, from the English Bill of Rights of 1689. As *Blackstone* said it, that protection was part of the settled liberties of the realm, rooted in what the law had long allowed, not in passing fashions. See 4 BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND (1769). Read in that

light, "unusual" does not mean odd; it means out of step with long usage: what *Stinneford* calls a check on "cruel innovation." See STINNEFORD, THE ORIGINAL MEANING OF "UNUSUAL", 102 Nw. U. L. Rev. 1739, 1816–18 (2008).

Here the question is not whether Title Four permits a court to "otherwise specify" duration; it is whether this punishment, as imposed, crosses the Cruel & Unusual Punishments line. Our cases teach that punishment must be proportioned to the offense. *Weems* v. *United States*, 217 U. S. 349, 367 (1910) ("It is a precept of justice that punishment for crime should be graduated and proportioned to offense."). The Clause is not frozen in 1689; it guards against punishments that offend the "evolving standards of decency that mark the progress of a maturing society." *Trop* v. *Dulles*, 356 U. S. 86, 101 (1958) (plurality). At the same time, our noncapital jurisprudence recognizes a "narrow proportionality principle," demanding that severe, permanent sanctions be justified by more than assertion, but I much prefer the *TrexeoDev* proportionality test (commonly the Robloxism principle).

A permanent firearm prohibition appended to criminal judgment is no ordinary condition; it is a character-long disability. It means that nobody can be reformed, for example, to become a LETI certified officer, or called to the Bar. In function it resembles the most severe noncapital penalties, which "forswear altogether the rehabilitative ideal." *Graham* v. *Florida*, 560 U. S. 48, 74 (2010). Nothing in this record explains why it is necessary to serve legitimate penal aims. Nor does the code's comparative scale suggest that lesser crimes warrant a sanction more enduring than those assigned to graver ones. On this showing, the prohibition departs both from proportion and from tradition. It is, in the old phrase, cruel in kind as well as in degree.

We take guidance from our colleagues who would fit doctrine to this forum's realities. JUSTICE CABOT warns that a straight import of federal tests, which the lower court judge may have relied on, can be "too rigid for a … community like ours." *State of Mayflower* v. *TrexeoDev*, 2 Mayf. ___ (2025) (CABOT, J., dissenting). THE CHIEF JUSTICE sounds the same note, cautioning against

"incessant credence to *Barker* … absent any consideration as to whether it is reconcilable with our … platform." *Id.* (TURNTABLE, C.J., dissenting). And they would have us adopt a holistic method sensitive to "our platform and our roleplay mechanics" rather than a wooden checklist. *Id.* (CABOT, J., dissenting). We agree with that premise and apply it to sentencing. In this environment, sanctions must be closely tailored to our community calibrated to the kinds of offenses we see and the cadence of play. A blanket, lifelong firearms disability untethered to individualized findings would prove unworkable. Were "everyone charged with murder" – if the Justice Department had done their job correctly - automatically and permanently barred from possessing or receiving any firearm, the rule would effectively outstrip the activity of Clark County and disable large swaths of lawful play; that is not realistic and not proportionate to legitimate aims of the Criminal Code. We therefore require individualization, time limits, and reasons on the record.

On that record, we hold that permanent prohibition is not "tailored to the platform". It is a sanction that never ends that is unproportionate to crime. The cardinal purpose of the game is to have the ownership of a gun.

III

The phrase "any degree of misconduct" is a term of art in this Code. Title 1 defines three graded offenses: misconduct, gross misconduct, and felony misconduct and only those. See 1 M.S.C. §§ 1302–1304. When a statute uses a term of art, courts presume it carries its established legal meaning. Read with the whole-act rule, § 1601(d)'s reference to "any degree of misconduct" points back to those defined offenses, not some common law interpretation. Appellant's convictions, second-degree murder and assault with a deadly weapon are not "misconduct," "gross misconduct," or "felony misconduct" within 1 M.S.C. §§ 1302–1304, *supra*. If the government wants disqualification of a peace officer, it should put such on the charging document. Section 1601(d) therefore does not apply. The fifty-day disqualification is vacated.

REVERSED AND REMANDED